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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,584	01/28/2002	John Allen Driver JR.		4946

7590 01/15/2004
Mr. John A. Driver, Jr.
212 Sheffield Way
Warner Robins, GA 31088

EXAMINER

FLYNN, AMANDA R

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 01/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,584

Applicant(s)

DRIVER, JOHN ALLEN

Examiner

Amanda R. Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5 and claims 6-9, drawn to an apparatus to suspend a leg of a human user, classified in class 602, subclass 4.
 - II. Claims 6-9, drawn to a breakaway fastener, classified in class 24, subclass 303.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require first and second housings with magnets. The subcombination has separate utility such as a fastener for a jacket.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with John Driver on 07 January 2004²⁰⁰⁴ a provisional election was made with traverse to prosecute the invention of Group I, claims 1-5. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 6-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

5. Claims 1-5 are objected to because of the following informalities: Claims 1-5 are objected to because of the improper use of the terms “means” and “said.” For example, in claim 1, Applicant provides a “foot receiving means,” a “load bearing means” and a “load transfer means.” It appears that Applicant intends to claim “means for receiving a foot”, “means for load bearing” and “means for load transfer”, so as to invoke 35 U.S.C. 112, sixth paragraph. Further, in subsection c of claim 1, the phrase “said opposite ends” does not have proper antecedent basis. Appropriate correction is required.

In accordance with Applicant’s request for assistance in drafting allowable claims, the Examiner has attached a series of claims for the Applicant to review. These claims address the above noted informalities in the claims, and would be allowable if they are acceptable to the Applicant. These claims further include limitations pertaining to the “breakaway safety fastener,” as claimed in withdrawn claims 6-9, and as indicated desirable by the Applicant.

It is recommended that the Applicant contact the Examiner upon receipt of the instant office action, to discuss an appropriate and timely response to the issues outstanding.

Conclusion

6. This application is in condition for allowance except for the formal matters listed above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

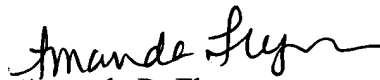
A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda R. Flynn whose telephone number is 703-306-4056. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Amanda R. Flynn
Examiner
Art Unit 3743


Arf

Proposed claims that would be allowable if approved by the Applicant:

1. An apparatus for use with a walker or crutches to suspend a single leg of a human user bent at the knee in a rearward elevated position while standing on the other leg to avoid weight bearing comprising:

- a.) a foot cradle device providing means for receiving a foot, equipped with a first anchor ring and adapted to engage the user's foot, said foot cradle device surrounding the forefoot and ankle of a user, and said first anchor ring residing on the rearward portion of a user's heel, approximately along the axis of the Achilles tendon;
 - b.) a torso harness device providing means for load bearing, equipped with a second anchor ring;
 - c.) a load strap providing means for load transfer, with a first end and a second end, wherein during use the first and second ends of said load strap engage said first anchor ring of said foot cradle device and said second anchor ring of said torso harness device;
 - d.) a breakaway safety fastener incorporated into the length of said load strap, providing means for disengaging at a pre-determined load whereby a user can release a suspended leg using the muscles of the suspended leg while standing on the user's other leg, wherein said breakaway safety fastener comprises two magnets of opposite polarity.
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2. The apparatus of claim 1, wherein said breakaway safety fastener disengages at an effective pre-determined load in excess of the load exerted on said breakaway safety fastener by the load of the user's rearward, elevated leg.

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3. Cancelled.

4. The apparatus of claim 1, wherein said foot cradle device further comprises:

a.) a first closed loop formed from a first flexible, elongated member, with means for adjusting the circumference of said first closed loop, and adapted to engage the user's foot such that said first closed loop completely encircles the user's forefoot forward of the shank of the leg;

b.) a second closed loop formed from a second flexible, elongated member with means for adjusting the circumference of said second closed loop, and adapted to engage the user's foot such that said second closed loop completely encircles the user's ankle approximately at the shank of the leg;

c.) means for integrating said first closed loop with said second closed loop of said foot cradle device;

d.) wherein said second closed loop is equipped with a releasable fastener;

e.) wherein said first anchor ring of said foot cradle device is integrally attached to said second closed loop;

f.) and said first anchor ring is pivotal within a plane of approximately 180 degrees.

5. The apparatus of claim 1, wherein said torso harness device is equipped with a pad adapted to extend over the top of a user's shoulder and onto the front and rear portions of a user's torso.

Claims 6-9 are withdrawn.

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10. The apparatus of claim 1, wherein the breakaway safety fastener comprises means for disengaging at a pre-determined load wherein the forces applied to said fastener are pull forces applied longitudinally to said fastener body, wherein said means for disengaging comprise:

- a.) a first housing member with a first strap holding member;
- b.) a second housing member with a second strap holding member;
- c.) one or more magnets fixedly attached to said first housing member;
- d.) one or more magnets fixedly attached to said second housing member;
- e.) wherein said magnets fixedly attached to said first housing member are of an equal number to said magnets fixedly attached to said second housing member;
- f.) wherein said magnets attached to said first housing member and said complementing magnets attached to said second housing member are in opposite magnetic pole orientation whereby said magnets attached to said first housing member are attracted to said complementing magnets attached to said second housing member;
- g.) wherein when coupled said fastener provides said magnets in said first housing member in flush coaxial contact with said magnets in said second housing member.

11. The apparatus of claim 10, wherein when coupled said first housing member and said second housing member are substantially rigid and non-pivotal.

12. The apparatus of claim 10, wherein when coupled said first strap holding means and said second strap holding member are substantially at opposite distal ends of the fastener body.

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13. The apparatus of claim 10, wherein when coupled said forces applied longitudinally to the fastener body to disengage said fastener are applied at said first strap holding member and said second strap holding member.



Henry Bennett
Supervisory Patent Examiner
Group 3700